

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Short et al.

Examiner: Heyer, Dennis

Application No.: 10/533,063

Group Art Unit: 4121

Filed: May 12, 2006

Docket: P-7714 (102-680 PCT/US/RCE)

For: SUGAR BINDING SURFACE

Dated: April 2, 2010

Confirmation No: 3122

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REPLY TO NOTICE OF IMPROPER
REQUEST FOR CONTINUED EXAMINATION**

Sir:

A Notice of Improper Request for Continued Examination (RCE) was mailed on March 3, 2010 indicating that a Request for Continued Examination filed on February 1, 2010 with respect to the above-identified application was improper. In particular, it was indicated that the RCE filing was in a reply to a non-final Office Action.

For the record, an Office Action was issued on October 30, 2009 which, on the Office Action Summary Sheet, was indicated to be Final. In response to the October 30, 2009 Office Action, an Amendment and a Request for Continued Examination was filed on February 1, 2010.

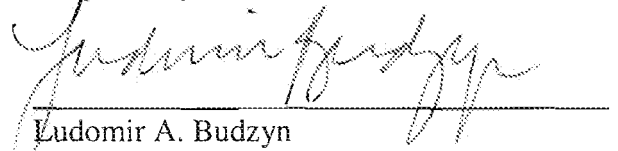
After receipt of the March 3, 2010 Notice of Improper RCE, this office was informed by Examiner Dennis Heyer, the Examiner who issued the October 30, 2009 Office Action, that the Office Action was inadvertently marked as being Final. In fact, the Office Action was non-final.

Applicants: Short et al.
Application No.: 10/533,063
Docket No.: 102-680 PCT/US/RCE
Page 2 of 2

In view of this mistake, Applicants hereby accept the denial of entry of the Request for Continued Examination. If in fact the October 30, 2009 Office Action is found to have been correctly marked Final, Applicants hereby request automatic reinstatement of the Request for Continued Examination.

If there are any questions or concerns, please contact Applicants' attorney at the number listed below.

Respectfully submitted,



Ludomir A. Budzyn
Attorney for Applicants
Registration No. 40,540

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791
(973) 331-1700

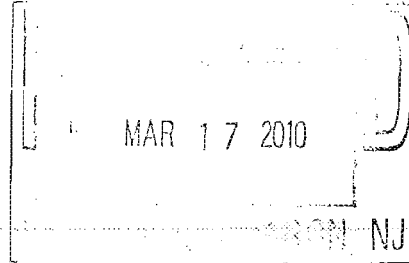


UNITED STATES PATENT AND TRADEMARK OFFICE

DKF
102-(1521) V

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

32752 e 03/03/2010
David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Hoffman & Baron)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880



Paper No.

Application No.:	10/533,063	Date Mailed:	03/03/2010
First Named Inventor:	Short, Robert,	Examiner:	HEYER, DENNIS
Attorney Docket No.:	P-7714	Art Unit:	1628
Confirmation No.:	3122	Filing Date:	05/12/2006

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

**NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)**

Application No.
10/533,063

Applicant(s)
SHORT ET AL.

Art Unit
1600

Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 01 February, 2010 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☒ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☐ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

/GOIGA N. DUCKETT/, Technology Center 1600

Telephone Number: (571)272-0522